IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

LA.App..No. 118 of 2003(D)

LAR.99/1994 of PRINCIPAL SUB COURT,KOLLAM
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APPELLANT: RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.K.V.MANOJ

RESPONDENTS: CLAIMANT:
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1. ABDUL LATHEEF, KOLADATHU VEEDU,
NJAKKANAL MURI, OACHIRA, REP. BY HIS
POWER OF ATTORNEY HOLDER JAMALUDDIN KUNJU.

2. DAVOOD, KOLADATHU VEEDU,
NJAKKANAL MURI, DO. DO.

3. ABDUL RAZAK OF DO. DO.

4. SHIHABUDDIN OF DO. DO.

5. MARIAMMA KUNJU OF DO. DO.

6. ASYA UMMA KUNJU DO. DO.

BY ADV. SRI.A.MOHAMMED
SRI.L.MOHANAN,
SRI.LIGEY ANTONY

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR,JJ.

L.A.A.No. 118 of 2003 and
C.M.P.No.471 of 2003

Dated this the 31st day of May, 2007

JUDGMENT

Kurian Joseph,J.

This is an appeal against the judgment and decree in LAR No.99/1994 on the file of the Sub Court, Kollam. There is a delay of 253 days in filing the appeal. On going through the affidavit, we do not find any satisfactory explanation for the delay. The judgment is dated 16-8-2001. Admittedly the certified copy was received on 20-3-2002. It is submitted that the same was misplaced upto 2-8-2002. But the appeal is filed only on 13-12-2002. Even assuming that the delay upto 2-8-2002 can be condoned, there is absolutely no explanation for the delay after 2-8-2002. Therefore, the application for condoning the delay in filing the appeal is liable to be dismissed.

2. On merits also it is seen that the extent acquired is only a small extent of 4.05 Ares of which 2.45 Ares is wet land and the rest dry land. The Land Acquisition Officer initially fixed an amount of Rs.1277/- per Are for wet land and Rs.4426/- for the garden land. The reference court fixed land value at Rs.8852/- for garden land and Rs.2554/- for the wet land. It is seen that the fixation is made on the basis of the evidence available on record. The reference court found

that the acquired property is situated parallel to the existing railway track and the same crosses two PWD roads. The reference court found that the property thus situated in an important locality with high potentials was not granted the proper market value by the Land Acquisition Officer. Though Ext.A1 was discarded, it is to be noted that the land value fixed therein is Rs.24624/- per Are. The distance from Ext.A1 property is only less than 100 metres. For all the above reasons we do not think that the fixation is in any way excessive or unreasonable. The reference court, having regard to the materials available on record, has made a just and proper fixation of the market value. The extent is small and the land involved also is only small extent. Thus there is no merit in the appeal. The application for condonation of delay and the appeal are hence dismissed.

(KURIAN JOSEPH, JUDGE)

(T.R.RAMACHANDRAN NAIR, JUDGE)

ahg.

KURIAN JOSEPH &
T.R.RAMACHANDRAN NAIR,JJ.

L.A.A.No. 118 of 2003 and
C.M.P.No.118 of 2003

JUDGMENT

31st May, 2007